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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 GABRIELLA REYES,

8 Plaintiff,

9 v.

10 DANIEL FLAGG, et al.,

11 Defendants.

Case No. 2:18-cv-01727-GMN-PAL

**ORDER**

(IFP App. – ECF No. 1)

12 This matter is before the court on Plaintiff Gabriella Reyes' Application to Proceed *In*  
13 *Forma Pauperis* (ECF No. 1). This Application is referred to the undersigned pursuant to 28  
14 U.S.C. § 636(b)(1)(A) and LR IB 1-3 of the Local Rules of Practice.

15 Ms. Reyes is proceeding in this action *pro se*, which means that she is not represented by  
16 an attorney. *See* LSR 2-1. Pursuant to 28 U.S.C. § 1914(a) and the Judicial Conference Schedule  
17 of Fees, a \$400 filing fee is required to commence a civil action in a federal district court. Any  
18 person who is unable to prepay the fees in a civil case may apply to the court for authority to  
19 proceed *in forma pauperis* ("IFP"), meaning without prepaying the full \$400 filing fee. *See* 28  
20 U.S.C. § 1915(a)(1); LSR 1-1. However, the court must apply "even-handed care" to ensure that  
21 "federal funds are not squandered to underwrite, at public expense, either frivolous claims" or the  
22 colorable claims of a plaintiff "who is financially able, in whole or in material part, to pull his own  
23 oar." *Temple v. Ellerthorpe*, 586 F. Supp. 848, 850 (D.R.I. 1984) (collecting cases); *see also*  
24 *Denton v. Hernandez*, 504 U.S. 25, 31 (1992) (recognizing Congress' concern that "a litigant  
25 whose filing fees and court costs are assumed by the public, unlike a paying litigant, lacks an  
26 economic incentive to refrain from filing frivolous, malicious, or repetitive lawsuits"). It is within  
27 the court's discretion to make a factual inquiry into a plaintiff's financial status and to deny an IFP  
28 application if an individual is unable or unwilling to verify his poverty. *United States v. McQuade*,

1 647 F.2d 938, 940 (9th Cir. 1981). If the court determines that an individual's allegation of poverty  
2 is untrue, "it *shall* dismiss the case." 28 U.S.C. § 1915(e)(2)(A) (emphasis added).

3 Here, Ms. Reyes has requested authority to proceed IFP and submitted the financial  
4 affidavit required by § 1915(a) asserting that she is unable to prepay fees and costs or give security  
5 for them. *See* IFP App. (ECF No. 1). However, the application is incomplete. She failed to  
6 provide answers to questions five, six, seven, or eight. Her statement that she receives \$720 per  
7 month in disability payments is insufficient to verify Ms. Reyes's poverty; thus, the court cannot  
8 determine whether she is eligible to proceed IFP. The court will therefore deny the IFP Application  
9 without prejudice and instruct the Clerk of the Court to mail Ms. Reyes a blank copy of the long  
10 form application (AO 239). Ms. Reyes will have until **October 26, 2018**, to submit a completed  
11 IFP application or pay the \$400 filing fee.

12 If Ms. Reyes submits a suitable IFP application and is granted IFP status, the court will  
13 then screen her complaint. Federal courts must screen any IFP complaint before allowing the case  
14 to move forward, issuing summons, and requiring an answer or responsive pleading. *See Lopez v.*  
15 *Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (en banc). If the court determines that the complaint  
16 states a plausible claim for relief, the Clerk of the Court will be directed to issue summons to the  
17 defendant(s) and the plaintiff must then serve the summons and complaint within 90 days. *See*  
18 *Fed. R. Civ. P. 4(m)*. If the court determines that the complaint fails to state an actionable claim,  
19 the complaint is dismissed without prejudice and the plaintiff is ordinarily given leave to amend  
20 with directions as to curing the pleading deficiencies unless it is clear from the face of the  
21 complaint that the deficiencies cannot be cured by amendment. *Cato v. United States*, 70 F.3d  
22 1103, 1106 (9th Cir. 1995).

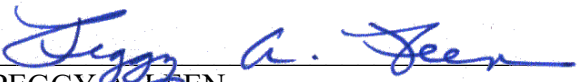
23 Accordingly,

24 **IT IS ORDERED:**

- 25 1. Plaintiff Gabriella Reyes' Application to Proceed *In Forma Pauperis* (ECF No. 1) is  
26 DENIED without prejudice.
- 27 2. The Clerk of Court shall RETAIN the proposed Complaint (ECF No. 1-1) but **SHALL**  
28 **NOT** issue summons.

- 1 3. The Clerk of the Court shall MAIL Ms. Reyes a copy of the long form application to  
2 proceed *in forma pauperis* (AO 239).  
3 4. Ms. Reyes will have until **November 5, 2018**, to submit the long form application to  
4 proceed *in forma pauperis* (AO 239) if she believes she can correct the noted  
5 deficiencies.  
6 5. Alternatively, Ms. Reyes may pay the \$400 filing fee on or before **November 5, 2018**.  
7 6. Ms. Reyes's failure to comply with this Order by: (a) submitting a completed long form  
8 IFP application (AO 239), or (b) paying the \$400 filing fee before the **November 5,**  
9 **2018** deadline will result in a recommendation to the district judge that this case be  
10 dismissed.

11 Dated this 5th day of October, 2018.

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13 PEGGY A. LEEN  
14 UNITED STATES MAGISTRATE JUDGE  
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